

AMENDED IN SENATE AUGUST 13, 2008

AMENDED IN SENATE AUGUST 4, 2008

AMENDED IN SENATE JUNE 25, 2008

AMENDED IN SENATE JUNE 11, 2008

AMENDED IN ASSEMBLY APRIL 15, 2008

AMENDED IN ASSEMBLY MARCH 13, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2967

Introduced by Assembly Member Lieber

February 22, 2008

An act to amend and repeal Section 128725 of, and to amend, repeal, and add Section 128695 of, and to add Chapter 4 (commencing with Section 128850) to Part 5 of Division 107 of, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2967, as amended, Lieber. Health care cost and quality transparency.

Existing law creates the California Health and Human Services Agency.

This bill would create the California Health Care Cost and Quality Transparency Committee in the California Health and Human Services Agency, with specified powers and duties, including the development of a health care cost and quality transparency plan, which would include various strategies to improve medical data collection and reporting practices. The bill would require the Secretary of California Health and

Human Services and the committee to undertake duties specified in the bill, including implementing various strategies to improve health care quality, and related performance measures. This bill would require the secretary, or the Office of Statewide Health Planning and Development, to adopt regulations as necessary to carry out the bill's requirements.

The bill would provide for the confidentiality of information obtained in the course of the data collection activities implemented under the bill. The bill would establish the Health Care Cost and Quality Transparency Fund, consisting of specified fees authorized under the bill that shall not exceed the cost of implementing the above provisions. The fund would be used, upon appropriation, to support implementation of the activities required under the bill.

~~Existing law, the Health Data and Advisory Council Consolidation Act, makes provision for the collection of data from health facilities. The act creates the California Health Policy and Data Advisory Commission, which is charged with certain functions and duties regarding data collection.~~

~~This bill would, commencing July 1, 2009, repeal the provisions creating and establishing the functions and duties of the California Health Policy and Data Advisory Commission and provide that any reference in the Health and Safety Code to the commission shall be deemed a reference to the Health Care Cost and Quality Transparency Committee.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 128695 of the Health and Safety Code~~
- 2 ~~is amended to read:~~
- 3 ~~128695. (a) There is hereby created the California Health~~
- 4 ~~Policy and Data Advisory Commission to be composed of 13~~
- 5 ~~members.~~
- 6 ~~The Governor shall appoint nine members, one of whom shall~~
- 7 ~~be a hospital chief executive officer, one of whom shall be a chief~~
- 8 ~~executive officer of a hospital serving a disproportionate share of~~
- 9 ~~low-income patients, one of whom shall be a long-term care facility~~
- 10 ~~chief executive officer, one of whom shall be a freestanding~~
- 11 ~~ambulatory surgery clinic chief executive officer, one of whom~~
- 12 ~~shall be a representative of the health insurance industry involved~~

1 in establishing premiums or underwriting, one of whom shall be
2 a representative of a group prepayment health care service plan,
3 one of whom shall be a representative of a business coalition
4 concerned with health, and two of whom shall be general members.
5 The Speaker of the Assembly shall appoint two members, one of
6 whom shall be a physician and surgeon and one of whom shall be
7 a general member. The Senate Committee on Rules shall appoint
8 two members, one of whom shall be a representative of a labor
9 coalition concerned with health, and one of whom shall be a general
10 member.

11 The Governor shall designate a member to serve as chairperson
12 for a two-year term. No member may serve more than two,
13 two-year terms as chairperson. All appointments shall be for
14 four-year terms. No individual shall serve more than two, four-year
15 terms.

16 (b) This section shall remain in effect only until July 1, 2009,
17 and as of that date is repealed, unless a later enacted statute, that
18 is enacted before July 1, 2009, deletes or extends that date.

19 SEC. 2. Section 128695 is added to the Health and Safety Code,
20 to read:

21 128695. (a) On and after July 1, 2009, any reference in this
22 code to the California Health Policy and Data Advisory
23 Commission shall be deemed a reference to the Health Care Cost
24 and Quality Transparency Committee created pursuant to Section
25 128855.

26 (b) This section shall become operative on July 1, 2009.

27 SEC. 3. Section 128725 of the Health and Safety Code is
28 amended to read:

29 128725. The functions and duties of the commission shall
30 include the following:

31 (a) Advise the office on the implementation of the new,
32 consolidated data system.

33 (b) Advise the office regarding the ongoing need to collect and
34 report health facility data and other provider data.

35 (c) Annually develop a report to the director of the office
36 regarding changes that should be made to existing data collection
37 systems and forms. Copies of the report shall be provided to the
38 Senate Committees on Health and Human Services and to the
39 Assembly Committee on Health.

~~(d) Advise the office regarding changes to the uniform accounting and reporting systems for health facilities.~~

~~(e) Conduct public meetings for the purposes of obtaining input from health facilities, other providers, data users, and the general public regarding this chapter and Chapter 1 (commencing with Section 127125) of Part 2 of Division 107.~~

~~(f) Advise the Secretary of Health and Welfare on the formulation of general policies which shall advance the purposes of this part.~~

~~(g) Advise the office on the adoption, amendment, or repeal of regulations it proposes prior to their submittal to the Office of Administrative Law.~~

~~(h) Advise the office on the format of individual health facility or other provider data reports and on any technical and procedural issues necessary to implement this part.~~

~~(i) Advise the office on the formulation of general policies which shall advance the purposes of Chapter 1 (commencing with Section 127125) of Part 2 of Division 107.~~

~~(j) Recommend, in consultation with a 12-member technical advisory committee appointed by the chairperson of the commission, to the office the data elements necessary for the production of outcome reports required by Section 128745.~~

~~(k) (1) The technical advisory committee appointed pursuant to subdivision (j) shall be composed of two members who shall be hospital representatives appointed from a list of at least six persons nominated by the California Association of Hospitals and Health Systems, two members who shall be physicians and surgeons appointed from a list of at least six persons nominated by the California Medical Association, two members who shall be registered nurses appointed from a list of at least six persons nominated by the California Nurses Association, one medical record practitioner who shall be appointed from a list of at least six persons nominated by the California Health Information Association, one member who shall be a representative of a hospital authorized to report as a group pursuant to subdivision (d) of Section 128760, two members who shall be representative of California research organizations experienced in effectiveness review of medical procedures or surgical procedures, or both procedures, one member representing the Health Access Foundation, and one member representing the Consumers Union.~~

1 Members of the technical advisory committee shall serve without
2 compensation, but shall be reimbursed for any actual and necessary
3 expenses incurred in connection with their duties as members of
4 the technical advisory committee.

5 (2) The commission shall submit its recommendation to the
6 office regarding the first of the reports required pursuant to
7 subdivision (a) of Section 128745 no later than January 1, 1993.
8 The technical advisory committee shall submit its initial
9 recommendations to the commission pursuant to subdivision (d)
10 of Section 128750 no later than January 1, 1994. The commission,
11 with the advice of the technical advisory committee, may
12 periodically make additional recommendations under Sections
13 128745 and 128750 to the office, as appropriate.

14 (b) (1) Assess the value and usefulness of the reports required
15 by Sections 127285, 128735, and 128740. On or before December
16 1, 1997, the commission shall submit recommendations to the
17 office to accomplish all of the following:

18 (A) Eliminate redundant reporting.

19 (B) Eliminate collection of unnecessary data.

20 (C) Augment databases as deemed valuable to enhance the
21 quality and usefulness of data.

22 (D) Standardize data elements and definitions with other health
23 data collection programs at both the state and national levels.

24 (E) Enable linkage with, and utilization of, existing data sets.

25 (F) Improve the methodology and databases used for quality
26 assessment analyses, including, but not limited to, risk-adjusted
27 outcome reports.

28 (G) Improve the timeliness of reporting and public disclosure.

29 (2) The commission shall establish a committee to implement
30 the evaluation process. The committee shall include representatives
31 from the health care industry, providers, consumers, payers,
32 purchasers, and government entities, including the Department of
33 Managed Health Care, the departments that comprise the Health
34 and Welfare Agency, and others deemed by the commission to be
35 appropriate to the evaluation of the databases. The committee may
36 establish subcommittees including technical experts.

37 (3) In order to ensure the timely implementation of the
38 provisions of the legislation enacted in the 1997-98 Regular
39 Session that amended this part, the office shall present an
40 implementation work plan to the commission. The work plan shall

1 clearly define goals and significant steps within specified
2 timeframes that must be completed in order to accomplish the
3 purposes of that legislation. The office shall make periodic progress
4 reports based on the work plan to the commission. The commission
5 may advise the Secretary of Health and Welfare of any significant
6 delays in following the work plan. If the commission determines
7 that the office is not making significant progress toward achieving
8 the goals outlined in the work plan, the commission shall notify
9 the office and the secretary of that determination. The commission
10 may request the office to submit a plan of correction outlining
11 specific remedial actions and timeframes for compliance. Within
12 90 days of notification, the office shall submit a plan of correction
13 to the commission.

14 (m) (1) ~~As the office and the commission deem necessary, the~~
15 ~~commission may establish committees and appoint persons who~~
16 ~~are not members of the commission to these committees as are~~
17 ~~necessary to carry out the purposes of the commission.~~
18 ~~Representatives of area health planning agencies shall be invited,~~
19 ~~as appropriate, to serve on committees established by the office~~
20 ~~and the commission relative to the duties and responsibilities of~~
21 ~~area health planning agencies. Members of the standing committees~~
22 ~~shall serve without compensation, but shall be reimbursed for any~~
23 ~~actual and necessary expenses incurred in connection with their~~
24 ~~duties as members of these committees.~~

25 (2) ~~Whenever the office or the commission does not accept the~~
26 ~~advice of the other body on proposed regulations or on major policy~~
27 ~~issues, the office or the commission shall provide a written~~
28 ~~response on its action to the other body within 30 days, if so~~
29 ~~requested.~~

30 (3) ~~The commission or the office director may appeal to the~~
31 ~~Secretary of Health and Welfare over disagreements on policy,~~
32 ~~procedural, or technical issues.~~

33 (n) ~~This section shall remain in effect only until July 1, 2009,~~
34 ~~and as of that date is repealed, unless a later enacted statute, that~~
35 ~~is enacted before July 1, 2009, deletes or extends that date.~~

36 SEC. 4. ~~Chapter 4 (commencing with Section 128850) is added~~
37 ~~to Part 5 of Division 107 of the Health and Safety Code, to read:~~

38 *SECTION 1. Chapter 4 (commencing with Section 128850) is*
39 *added to Part 5 of Division 107 of the Health and Safety Code, to*
40 *read:*

1 CHAPTER 4. HEALTH CARE COST AND QUALITY TRANSPARENCY

2
3 Article 1. General Provisions
4

5 128850. The Legislature hereby finds and declares all of the
6 following:

7 (a) The steady rise in health costs is eroding health access,
8 straining public health and finance systems, and placing an undue
9 burden on the state's economy.

10 (b) The effective use and distribution of health care data and
11 meaningful analysis of that data will lead to greater transparency
12 in the health care system, resulting in improved health care quality
13 and outcomes, more cost-effective care, and improvements in life
14 expectancy, reduced death rates, and improved overall public
15 health.

16 (c) Hospitals, physicians, health care providers, and health
17 insurers that have access to systemwide performance data can use
18 the information to improve patient safety, efficiency of health care
19 delivery, and quality of care, which would lead to quality
20 improvement and cost savings throughout the health care system.

21 (d) The State of California is uniquely positioned to collect,
22 analyze, and report all payer data on health care utilization, quality,
23 and costs in the state in order to facilitate value-based purchasing
24 of health care and to support and promote continuous quality
25 improvement among health plans and providers.

26 (e) Establishing statewide data and common measurement, and
27 analyses of health care costs, quality, and outcomes will identify
28 appropriate health care utilization and ensure the highest quality
29 of health care services for all Californians.

30 (f) Comprehensive statewide data and common measurement
31 will allow analysis of the provision of care, so that efforts can be
32 undertaken to improve health outcomes for all Californians,
33 including those groups with demonstrated health disparities.

34 (g) It is therefore the intent of the Legislature that the State of
35 California assume a leadership role in measuring performance and
36 value in the health care system. By establishing the primary
37 statewide data and common measurement, and analyses of health
38 care costs, quality, and outcomes, and by providing sufficient
39 revenues to adequately analyze and report meaningful performance
40 measures related to health care costs, safety, and quality, the

1 Legislature intends to promote competition, identify appropriate
2 health care utilization, and ensure the highest quality of health care
3 services for all Californians.

4 (h) The Legislature further intends to reduce duplication and
5 inconsistency in the collection, analysis, and dissemination of
6 health care performance information within state government and
7 among both public and private entities by coordinating health care
8 data development, collection, analysis, evaluation, and
9 dissemination.

10 (i) It is further the intent of the Legislature that the data collected
11 be used for the transparent public reporting of quality and cost
12 efficiency ~~information regarding all levels of the health care~~
13 ~~system, including health care service plans and health insurers,~~
14 ~~hospitals and other health facilities, and medical groups, physicians,~~
15 ~~and other licensed health professionals in independent practice,~~
16 ~~so that health care plans and providers can improve their~~
17 ~~performance and deliver safer, better health care more affordably;~~
18 ~~so that purchasers can know which health care services reduce~~
19 ~~morbidity, mortality, and other adverse health outcomes; so that~~
20 ~~consumers can choose whether and where to have health care~~
21 ~~provided; and so that policymakers can effectively monitor the~~
22 ~~health care delivery system to ensure quality and value for all~~
23 ~~purchasers and consumers. information. The Legislature recognizes~~
24 ~~that new data reporting requirements can be a tremendous burden~~
25 ~~to physicians and other providers, and can add substantial new~~
26 ~~costs to the health care system. With limited resources, these~~
27 ~~additional costs may put pressure on providers to change practice~~
28 ~~patterns and reduce care to the uninsured or Medi-Cal patients.~~
29 ~~The Legislature further recognizes that national standards are~~
30 ~~being developed collaboratively between payors, physicians, and~~
31 ~~consumers. Therefore, it is further the intent of the Legislature~~
32 ~~that any future efforts to expand the provisions of this article to~~
33 ~~apply to physicians and other providers recognize the financial~~
34 ~~burdens imposed and the need to ameliorate those burdens. It is~~
35 ~~further the intent of the Legislature that any future expansions of~~
36 ~~data reporting requirements recognize the need to be consistent~~
37 ~~with national standards that are being developed collaboratively~~
38 ~~between the American Medical Association (AMA) and the~~
39 ~~Association of Health Insurance Plans (AHIP).~~

1 (j) *It is the intent of the Legislature that the new program*
2 *established pursuant to this article should receive a cost-benefit*
3 *analysis, and be thoroughly evaluated before expanding the*
4 *program to other providers.*

5 (j)

6 (k) The Legislature further intends that all existing duties,
7 powers, and authority relating to health care cost, quality, and
8 safety data collection and reporting under current state law continue
9 in full effect.

10 128851. As used in this chapter, the following terms have the
11 following meanings:

12 (a) “Administrative claims data” means data that are submitted
13 electronically or otherwise to, or collected by, health insurers,
14 health care service plans, administrators, or other payers of health
15 care services and that are submitted to, or collected for, the
16 purposes of payment to any licensed health professional, medical
17 provider group, laboratory, pharmacy, hospital, imaging center,
18 or any other facility or person that is requesting payment for the
19 provision of medical care.

20 (b) “Committee” means the Health Care Cost and Quality
21 Transparency Committee.

22 (1) All references to the California Health Policy and Data
23 Advisory Commission created pursuant to Section 128695 shall
24 be deemed to be references to the committee.

25 (2) All references to the technical advisory committee created
26 pursuant to subdivisions (j) and (k) of Section 128725 shall be
27 deemed to be references to the clinical advisory panel or technical
28 committee designated by the committee for this purpose.

29 (c) “Data source” means ~~a licensed physician or any other~~
30 ~~licensed health professional in independent practice, medical~~
31 ~~provider group,~~ any health facility, health care service plan licensed
32 by the Department of Managed Health Care, health insurer
33 certificated by the Insurance Commissioner to sell health insurance,
34 any state agency providing or paying for health care or collecting
35 health care data or information, or any other payer for health care
36 services in California.

37 (d) “Encounter data” means data related to treatment or services
38 rendered by providers to patients that may be reimbursed on a
39 fee-for-service statement.

1 ~~(e) “Group” or “medical provider group” means an affiliation~~
2 ~~of physicians and other health care professionals, whether a~~
3 ~~partnership, corporation, or other legal form, with the primary~~
4 ~~purpose of providing medical care.~~

5 ~~(f)~~

6 ~~(e) “Health facility” or “health facilities” means health facilities~~
7 ~~required to be licensed pursuant to Chapter 2 (commencing with~~
8 ~~Section 1250) of Division 2.~~

9 ~~(g) “Licensed health professional in independent practice” means~~
10 ~~a licensed health professional who is authorized to order or direct~~
11 ~~health services for patients or who is eligible to bill Medi-Cal for~~
12 ~~services. The term includes, but is not limited to, nurse~~
13 ~~practitioners, physician assistants, dentists, chiropractors, and~~
14 ~~pharmacists.~~

15 ~~(h)~~

16 ~~(f) “Office” means the Office of Statewide Health Planning and~~
17 ~~Development.~~

18 ~~(i)~~

19 ~~(g) “Risk-adjusted outcomes” means the clinical outcomes of~~
20 ~~patients grouped by diagnoses or procedures, that have been~~
21 ~~adjusted for demographic and clinical factors.~~

22 ~~(j)~~

23 ~~(h) “Secretary” means the Secretary of California Health and~~
24 ~~Human Services.~~

25 ~~128852. (a) Any limitation on the addition of data elements~~
26 ~~or public reporting pursuant to Chapter 1 (commencing with~~
27 ~~Section 128675) shall be inapplicable to the extent determined~~
28 ~~necessary to implement the responsibilities under this chapter. All~~

29 ~~128852. (a) All data collected by the office shall be available,~~
30 ~~except that this data shall not be made available in a manner that~~
31 ~~would permit the linking of the information disclosed to the~~
32 ~~individual to whom it pertains, unless the entity receiving the data~~
33 ~~is entitled to receive that data pursuant to Section 1798.24 of the~~
34 ~~Civil Code.~~

35 ~~(b) The office shall make available to the committee any~~
36 ~~information and staff resources as may be necessary to assist in~~
37 ~~and support the responsibilities of the committee.~~

38 ~~(c) All data collected by the office shall be available to any~~
39 ~~entity with which the secretary has contracted pursuant to~~
40 ~~subdivision (c) of Section 128865 as necessary for the purposes~~

1 of carrying out responsibilities under this chapter. However, this
2 data shall be made available in a manner that would prevent linking
3 the information disclosed to the individual to whom it pertains,
4 unless the entity receiving the data is entitled to receive that data
5 pursuant to Section 1798.24 of the Civil Code.

6
7 Article 2. Health Care Cost and Quality Transparency
8 Committee
9

10 128855. There is hereby created in the California Health and
11 Human Services Agency the Health Care Cost and Quality
12 Transparency Committee, composed of 16 members. The
13 appointments shall be made as follows:

- 14 (a) The Governor shall appoint 10 members as follows:
15 (1) One researcher with experience in health care data and cost
16 efficiency research.
17 (2) One representative of private hospitals.
18 (3) One representative of public hospitals.
19 (4) One representative of an integrated multispecialty medical
20 group.
21 (5) One representative of health insurers or health care service
22 plans.
23 (6) One representative of licensed health professionals in
24 independent practice.
25 (7) One representative of large employers that purchase group
26 health care coverage for employees and who is not also a supplier
27 or broker of health care coverage.
28 (8) One representative of a labor union.
29 (9) One representative of employers that purchase group health
30 care coverage for their employees or a representative of a nonprofit
31 organization that demonstrates experience working with employers
32 to enhance value and affordability of health care coverage.
33 (10) One representative of pharmacists.
34 (b) The Senate Committee on Rules shall appoint three members
35 as follows:
36 (1) One representative of a labor union.
37 (2) One representative of consumers with a demonstrated record
38 of advocating health care issues on behalf of consumers.
39 (3) One representative of physicians and surgeons who is a
40 practicing patient-care physician licensed in the State of California.

1 (c) The Speaker of the Assembly shall appoint three members
2 as follows:

3 (1) One representative of consumers with a demonstrated record
4 of advocating health care issues on behalf of consumers.

5 (2) One representative of small employers that purchase group
6 health care coverage for employees and who is not also a supplier
7 or broker in health care coverage.

8 (3) One representative of a nonprofit labor-management
9 purchaser coalition that has a demonstrated record of working with
10 employers and employee associations to enhance value and
11 affordability in health care.

12 (d) The following members shall serve in an ex officio,
13 nonvoting capacity:

14 (1) The Executive Officer of the California Public Employees
15 Retirement System or his or her designee.

16 (2) The Director of the Department of Managed Health Care or
17 his or her designee.

18 (3) The Insurance Commissioner or his or her designee.

19 (4) The Director of the Department of Public Health or his or
20 her designee.

21 (5) The Director of the State Department of Health Care Services
22 or his or her designee.

23 (6) The Director of Statewide Health Planning and Development.

24 (7) The executive director of the Managed Risk Medical
25 Insurance Board or his or her designee.

26 (e) The Governor shall designate a member to serve as
27 chairperson for a two-year term. No member may serve more than
28 two, two-year terms as chairperson. All appointments shall be for
29 four-year terms, as provided. However, the initial term shall be
30 two years for members initially filling the positions set forth in
31 paragraphs (1), (2), (4), and (6) of subdivision (a), paragraph (2)
32 of subdivision (b), and paragraph (2) of subdivision (c).

33 128856. The committee shall meet at least once every two
34 months, or more often, if necessary to fulfill its duties.

35 128857. The members of the committee shall receive
36 reimbursement for any actual and necessary expenses incurred in
37 connection with their duties as members of the committee.

38 128858. The secretary shall provide or contract for
39 administrative support for the committee.

40 128859. The committee shall do all of the following:

1 (a) Develop and recommend to the secretary the health care cost
2 and quality transparency plan, as provided in Article 3
3 (commencing with Section 128865).

4 (b) Monitor the implementation of the health care cost and
5 quality transparency plan.

6 (c) Issue an annual public report, on or before March 1, on the
7 status of implementing this chapter, the resources necessary to
8 fully implement this chapter, and any recommendations for changes
9 to the statutes, regulations, or the transparency plan that would
10 advance the purposes of this chapter.

11 128860. (a) The committee shall appoint at least one technical
12 committee, and may appoint additional technical committees as
13 the committee deems appropriate, and shall include on each
14 technical committee academic and professional experts with
15 expertise related to the activities of the committee.

16 (b) (1) The committee shall appoint at least one clinical advisory
17 panel and may appoint additional panels specific to issues that
18 require additional or different clinical expertise. Each clinical panel
19 shall contain a majority of clinicians with expertise related to the
20 activities of the committee and any issue under consideration and
21 shall also include experts in collecting and reporting data. Each
22 clinical panel shall also include three members of the committee,
23 one of whom shall be a representative of hospitals or health
24 professionals, one of whom shall be a representative of health
25 plans, health insurers, or integrated multispeciality medical groups,
26 and one of whom shall be a representative of consumers,
27 purchasers, or labor unions.

28 (2) For the initial plan, the committee shall appoint at least one
29 advisory clinical panel that shall do all of the following:

30 (A) Issue a written report of recommendations to implement
31 the goals set forth by the committee, including how to measure
32 quality improvement, necessary data elements, and appropriate
33 risk-adjustment methodology. The report shall be submitted to the
34 committee within the time period specified by the committee. The
35 committee shall either adopt the recommendations of the clinical
36 panel or, by a two-thirds vote of the committee, reject the
37 recommendations. If the committee rejects the recommendations,
38 it shall issue a written finding and rationale for rejecting the
39 recommendations, and shall refer the issue back to the clinical
40 panel and request additional or modified recommendations in

1 specific areas in which the committee found the recommendations
2 deficient.

3 (B) Make recommendations to the committee concerning the
4 specific data to be collected and the methods of collection to
5 implement this chapter, assure that the results are statistically valid
6 and accurate, and state any limitations on the conclusions that can
7 be drawn from the data.

8 (C) Make recommendations concerning the measures necessary
9 to implement the reporting requirements in a manner that is cost
10 effective, reasonable for data sources, and is reliable, timely, and
11 relevant to consumers, purchasers, and health providers.

12 (c) The members of the technical committees and clinical
13 advisory panels shall be reimbursed for any actual and necessary
14 expenses incurred in connection with their duties as members of
15 the technical committee or clinical advisory panel.

16 (d) The committee shall provide opportunities for participation
17 from consumers and patients as well as purchasers and providers
18 at all committee meetings.

19 128861. The committee, technical committee, and clinical
20 advisory panel members, and any contractors, shall be subject to
21 the conflict-of-interest policy of the California Health and Human
22 Services Agency.

23 ~~128862. (a) On and after July 1, 2009, any reference in this~~
24 ~~code to the California Health Policy and Data Advisory~~
25 ~~Commission shall be deemed a reference to the Health Care Cost~~
26 ~~and Quality Transparency Committee created pursuant to Section~~
27 ~~128855.~~

28 ~~(b) On and after July 1, 2009, any reference in this code to the~~
29 ~~technical advisory committee appointed by the chairperson of the~~
30 ~~California Health Policy and Data Advisory Commission shall be~~
31 ~~deemed a reference to the technical committee or committees or~~
32 ~~the clinical advisory panel or panels appointed by the Health Care~~
33 ~~Cost and Quality Transparency Committee pursuant to Section~~
34 ~~128860.~~

35 ~~(c) Effective July 1, 2009, the California Health Policy and Data~~
36 ~~Advisory Commission created pursuant to Section 128695 and the~~
37 ~~technical advisory committee created pursuant to subdivisions (j)~~
38 ~~and (k) of Sections 128725 are abolished.~~

Article 3. Health Care Cost and Quality Transparency Plan

128865. (a) (1) The committee, within one year after its first meeting, shall develop and recommend to the secretary an initial health care cost and quality transparency plan.

(2) The committee shall periodically review and recommend updates to the Health Care Cost and Quality Transparency Plan. The committee shall conduct a full review every three years, and any recommendations resulting from the review shall be subject to Section 128866.

(3) The initial plan and updates to the plan shall result in public reporting of safety, quality, and cost efficiency information on the health care system. The purpose of the plan shall be to improve health care cost efficiency, improve health system performance, and promote quality patient outcomes.

(4) In developing the initial plan and updates to the plan, the committee shall review existing data gathering and reporting, including existing voluntary efforts.

(5) In developing the initial plan and updates to the plan, the committee shall obtain the recommendation of the relevant clinical advisory panel or panels, if any, on the measures to be reported.

(b) The plan shall include, but not be limited to, strategies to do all of the following:

(1) Measure and collect data related to health care safety and quality, utilization, health outcomes, and cost of health care services from health plans and insurers, ~~medical groups, health facilities, and licensed health professionals~~ *and health facilities*.

(2) Measure each of the performance domains, including, but not limited to, safety, timeliness, effectiveness, efficiency, quality, and other domains as appropriate.

(3) Develop a valid methodology for collecting and reporting cost and quality information to ensure the integrity of the data and reflect the intensity, cost, and scope of services provided, and that the data are collected from the most appropriate data source.

(4) Measure and collect data related to disparities in health outcomes among various populations and communities, including racial and ethnic groups.

(5) Use and build on existing data collection standards, methods, and definitions to the greatest extent possible to accomplish the

goals of this article in an efficient and effective manner including the data collected by the state and federal governments.

(6) Incorporate and utilize administrative claims data to the extent it is the most efficient method of collecting valid and reliable data.

(7) Improve coordination, alignment, and timeliness of data collection, state and federal reporting practices and standards, and existing mandatory and voluntary measurement and reporting activities by existing public and private entities, taking into account the reporting burden on providers.

(8) Provide public reports, analyses, and data on the health care quality, safety, and performance measures of health plans and insurers, ~~medical groups, health facilities, licensed physicians, and other licensed health professionals in independent practice, and~~ *health facilities* that are accurate, statistically valid, and descriptive of how the data were derived.

(9) Maintain patient confidentiality consistent with all applicable federal and state medical and patient privacy laws at all times.

(10) Coordinate and streamline existing related data collection and reporting activities within state government.

(11) Participate in the monitoring of plan implementation, including a timeline and prioritization of the planned data collection, analyses, and reports.

(12) Participate in the monitoring of data collection, continuous quality improvement, and reporting functions.

(13) Assess compliance with data collection requirements needed to implement this chapter.

(14) Recommend a fee schedule sufficient to fund the implementation of this chapter.

(c) The secretary may contract with a qualified public or private agency or academic institution to assist in the review of existing data collection programs or to conduct other research or analysis deemed necessary for the committee or secretary to complete and implement the Health Care Cost and Quality Transparency Plan or to meet the obligations of this chapter.

128866. (a) Within 90 days of receipt of the Health Care Cost and Quality Transparency Plan recommended by the committee, the secretary shall do one of the following:

(1) Advise the committee that the recommended plan is accepted and implementing regulations shall be drafted and submitted to

1 the Office of Administrative Law pursuant to the Administrative
2 Procedures Act, Chapter 3.5 (commencing with Section 11340)
3 of Part 1 of Division 3 of Title 2 of the Government Code.

4 (2) Refer the plan back to the committee and request additional
5 or modified recommendations in specific areas in which the
6 secretary finds the plan is deficient. If referred back to the
7 committee, the secretary shall respond to any modified
8 recommendation in the manner provided in this section.

9 (b) Every six years after implementation, commencing with
10 2014, the secretary shall report to the Legislature on the work of
11 the committee and whether the committee should be continued in
12 the manner described in this article or whether changes should be
13 made to the law.

14
15 Article 4. Implementation of the Health Care Quality and
16 Transparency Plan
17

18 128867. (a) After acceptance of the plan pursuant to Section
19 128866, the secretary shall be responsible for timely
20 implementation of the approved plan. The secretary shall ensure
21 timely implementation by the office, which shall include, but not
22 be limited to, all of the following:

23 (1) Provide data, information, and reports as may be required
24 by the committee to assist in its responsibilities under this chapter.

25 (2) Determine the specific data to be collected and the methods
26 of collection to implement this chapter, consistent with the
27 approved plan, and ensure that the results are statistically valid
28 and accurate, as well as risk-adjusted, where appropriate.

29 (3) Determine the measures necessary to implement the reporting
30 requirements in a manner that is cost effective and reasonable for
31 data sources, and is timely, relevant, and reliable for consumers,
32 purchasers, and providers.

33 (4) Collect the data consistent with the data reporting
34 requirements of the approved plan, including, but not limited to,
35 data on quality, health outcomes, cost, and utilization.

36 (5) Audit, as necessary, the accuracy of any or all data submitted
37 to the lead agency pursuant to this chapter.

38 (6) Seek to establish agreements for voluntary reporting of health
39 care claims and data from any and all health care data sources that
40 are not subject to mandatory reporting pursuant to this chapter, in

1 order to ensure the most comprehensive systemwide data on health
2 care costs and quality.

3 (7) Fully protect patient privacy and confidentiality, in
4 compliance with federal and state privacy laws, while preserving
5 the ability to analyze data. Any individual patient information
6 obtained pursuant to this chapter shall be exempt from the
7 disclosure requirements of the Public Records Act (Chapter 3.5
8 (commencing with Section 6250) of Division 7 of Title 1 of the
9 Government Code).

10 (8) ~~Adopt the same procedures for health care providers as those~~
11 ~~specified in Section 128750 and adopt substantially similar~~
12 ~~procedures~~ *substantially similar procedures as those specified in*
13 *Section 128750* for other data sources to ensure that all data sources
14 identified in any outcome report have a reasonable opportunity to
15 review, comment on, and appeal any outcome report in which the
16 data source is identified before it is released to the public.

17 (b) The secretary and office shall consult with the committee
18 in implementing this chapter, and shall cooperate with the
19 committee in fulfilling the committee's responsibility to monitor
20 implementation activities.

21 (c) All state agencies shall cooperate with the secretary and the
22 office to implement the Health Care Cost and Quality Transparency
23 Plan approved by the secretary.

24 (d) The secretary or the office shall adopt regulations as are
25 necessary to carry out the requirements of this chapter.

26 128868. Nothing in this chapter shall be construed to authorize
27 the disclosure of any confidential information concerning
28 contracted rates between health care providers and payers or any
29 other data source, but nothing in this section shall prevent the
30 disclosure of information on the relative or comparative cost to
31 payers or purchasers of health care services, consistent with the
32 requirements of this chapter.

33 128869. (a) Patient social security numbers and any other data
34 elements that the office believes may be used to determine the
35 identity of an individual patient shall be exempt from the disclosure
36 requirements of the California Public Records Act (Chapter 3.5
37 (commencing with Section 6250) of Division 7 of Title 1 of the
38 Government Code).

39 (b) No person reporting data pursuant to this section shall be
40 liable for damages in any action based on the use or misuse of

1 patient-identifiable data that has been mailed or otherwise
2 transmitted to the office pursuant to the requirements of this
3 chapter.

4 (c) No communication of data or information by a data source
5 to the committee, the secretary, or the office shall constitute a
6 waiver of privileges preserved by Section 1156, 1156.1, or 1157
7 of the Evidence Code or Section 1370.

8 (d) Information, documents, or records from original sources
9 otherwise subject to discovery or introduction into evidence shall
10 not be immune from discovery or introduction into evidence merely
11 because they were also provided to the committee or office
12 pursuant to this chapter.

13 128870. (a) The office shall solicit input from interested
14 stakeholders and convene meetings to receive input on the creation
15 of a fee schedule to implement this section. This stakeholder
16 process shall occur in a manner that allows for meaningful review
17 of the information and fiscal projections by the interested
18 stakeholders. After the stakeholder process has been convened and
19 used in the development of a proposal, the office shall provide the
20 secretary with a proposal that will, to the extent possible, identify
21 a fee schedule and other financial resources for the implementation
22 of this chapter and allow for the recovery of costs of implementing
23 centralized data collection, and effective analysis and reporting
24 activities under this chapter.

25 (b) The schedule of fees, including specific fees charged to each
26 data source and user, shall be evaluated by the Legislature as a
27 part of the annual Budget Act process. The annual budget of the
28 committee shall be presented and justified to the Legislature with
29 an annual work plan including a description of the data sources,
30 data, elements, use of the data, and the number and frequency of
31 reports to be made available. Fees collected shall not exceed the
32 cost of implementing this chapter, including technical and
33 administrative support for the committee, the technical committee
34 or committees, and the clinical advisory panel or panels, as well
35 as the activities of the office arising from this article.

36 (c) The total amount of fees charged by the office to a hospital
37 to recover the costs of implementing this chapter, and the fees
38 charged to that hospital pursuant to Section 127280 shall not exceed
39 0.06 percent of the gross operating cost of the hospital for the

1 provision of health care services for its last fiscal year that ended
2 on or before June 30 of the preceding calendar year.

3 (d) The office shall recover its costs in implementing this chapter
4 by assessing and collecting fees from data sources and data users
5 in accordance with the fee schedule approved by the secretary.
6 The office shall annually evaluate the fee schedule to determine
7 whether the fees are sufficient to fund the actual costs of
8 implementing this chapter. The office shall also evaluate the fees
9 to ensure that data sources and data users are equitably assessed
10 and that no one source or user is assessed in a disproportionate
11 manner. If the evaluation shows that the fees are excessive, or are
12 insufficient to fund the actual costs of implementing these
13 programs, the secretary shall propose an adjustment to the fees for
14 evaluation by the Legislature during the annual Budget Act process.

15 (e) No fees shall be assessed or collected pursuant to this section
16 from any state department, authority, bureau, commission, or
17 officer, unless federal financial participation would become
18 available by doing so and an appropriation is included in the annual
19 Budget Act for that state department, authority, bureau,
20 commission, or officer for this purpose.

21 128871. There is hereby established in the State Treasury the
22 Health Care Cost and Quality Transparency Fund to support the
23 implementation of this chapter. All fees and contributions collected
24 by the office pursuant to Section 128870 shall be deposited in this
25 fund and used to support the implementation of this chapter.
26 Expenditures shall be subject to appropriation in the annual Budget
27 Act.